

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

SMART LOCAL 265 WELFARE FUND, <i>et al.</i> ,)	
)	
)	
Plaintiffs,)	CIVIL ACTION
)	
vs.)	NO. 19 C 6217
)	
ANY TIME HEATING & AIR CONDITIONING, INC., an Illinois corporation,)	JUDGE CHARLES R. NORGLER, SR.
)	
Defendant.)	

MOTION FOR ENTRY OF JUDGMENT

Plaintiffs, by and through their attorneys, default having been entered against the Defendant on November 7, 2019, request this Court enter judgment against Defendant, ANY TIME HEATING & AIR CONDITIONING, INC., an Illinois corporation. In support of this Motion, Plaintiffs state:

1. On November 8, 2019, this Court entered default against Defendant and granted Plaintiffs' request for an order directing Defendant to turn over its monthly fringe benefit contribution reports for the months of August 2019 and September 2019. The Court also entered an order that judgment would be entered after Plaintiffs' received the required contribution reports and determined the amounts due and owing from Defendant.

2. On or about November 7, 2019, Plaintiffs' counsel received Defendant's monthly fringe benefit contribution reports for the months of August and September 2019. Thereafter, Plaintiffs' counsel received Defendant's monthly fringe benefit contribution reports for the months of October 2019 and November 2019. Previous thereto, Defendant submitted its monthly fringe benefit contribution reports for May 2019 through July 2019 but failed to remit payment of the

contributions due thereon in the amount of \$49,479.17. The reports for May 2019 through November 2019 indicate Defendant is delinquent in contributions to the Funds in the amount of \$111,892.17. (See Affidavit of Kevin J. Schell).

3. Additionally, the amount of \$22,367.63 is due representing 20% liquidated damages (Schell Aff. Par. 5).

4. On January 31, 2020, Defendant executed a promissory note for the repayment of \$136,380.30 for contributions and 20% liquidated damages, plus interest at 1.5% per month on the declining balance, to be paid in three monthly installments of \$45,000, \$45,000 and \$46,723.55 on February 1, 2020, March 1, 2020 and April 1, 2020. To date, Defendant has failed to submit the first installment of \$45,000 due on February 1, 2020 (Schell Aff. Par. 6).

5. On or around May 2019, Plaintiffs' auditors completed an audit of the Defendant's payroll books and records for the time period March 1, 2016 through January 31, 2019. The audit findings show that the Defendant is delinquent in contributions to the Funds in the amount of \$1,565.85, plus \$313.17 for liquidated damages, for a total of \$1,879.02 (Schell Aff. Par. 8, 9).

6. Plaintiffs' auditing firm of Calibre CPA Group, PLLC charged Plaintiffs \$1,215.00 to perform the audit examination and complete the report and the Funds are entitled to recover said fees under their Trust Agreements (Schell Aff. Par. 10).

7. In addition, Plaintiffs' firm has expended \$485.00 for costs and \$2,874.25 for attorneys' fees in this matter. (See Affidavit of Catherine M. Chapman).

8. Based upon the documents attached hereto, Plaintiffs request entry of judgment in the total amount of \$140,713.07.

WHEREFORE, Plaintiffs respectfully request this Court to enter judgment in the amount of \$140,713.07.

/s/ Cecilia M. Scanlon

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CERTIFICATE OF SERVICE

The undersigned, an attorney of record, hereby certifies that she electronically filed the foregoing document (Motion for Entry of Judgment) with the Clerk of Court using the CM/ECF system, and further certifies that I have mailed the above-referenced document by United States Mail to the following non-CM/ECF participant on or before the hour of 5:00 p.m. this 21st day of February 2020:

Mr. Brett M. Dale, Registered Agent
Any Time Heating & Air Conditioning, Inc.
1755 S. Naperville Road, Suite 200
Wheaton, IL 60189-5844

Mr. Gary W. Murphy, President
Any Time Heating & Air Conditioning, Inc.
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/s/ Cecilia M. Scanlon

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